

PLANNING BOARD MINUTES
JULY 13, 2015

Call The Meeting to Order

Chairman Stephen Johnson called the meeting to order at 7:03 P.M. in the Town Hall Auditorium. Present at the meeting were, Robert Fowler, Nancy Reed, Vincent Fratalia, Keith Anderson, Director of Community Development Steve Sadwick and Recording Secretary Dawn Cathcart.

(A) Approval of Minutes – April 21, 2015, May 28, 2015, June 8, 2015 and June 22, 2015

MOTION - Mr. Anderson made a motion to approve the minutes of April 21, 2015, May 28, 2015, June 8, 2015 and June 22, 2015 as submitted. The motion was seconded by Mr. Fratalia and unanimously voted 5-0 except for June 22, 2015, where Ms. Reed abstained from voting since she was not present.

(B) Committee Reports/Administrative Actions

(B1) Committee Reports

Mrs. Reed stated that the CPA is meeting next Thursday to discuss the rehab of Strong Field and fencing at Livingston Street.

Mr. Fratalia stated that the Green Committee was awarded a grant for \$250,000 for lighting improvement.

(B2) 5 Westland Drive - ANR

Ralph Giandomenico stated that his lot was split back in the 1980s and they would like to join them back together so they can install solar panels on the ground.

Mr. Fratalia stated that this is the back lot behind the house. Mr. Giandomenico replied yes. Mr. Anderson, Mr. Fowler, Mrs. Reed and Mr. Johnson had no questions.

MOTION - Mr. Fowler made a motion to endorse the ANR as presented for 5 Westland Drive. The motion was seconded by Mr. Fratalia and unanimously voted 5-0.

(B3) 1390 & 1394 Main Street, Non-Substantial Determination

Attorney Allison O'Connor, Attorney Daniel Sherwood and Joseph Germano appeared for a non-substantial determination for 1390 & 1394 Main Street. Attorney O'Connor stated that they are proposing changing the four residential units on the second floor of the commercial building into commercial/office space. The fourteen other residential townhouse units will remain as approved.

Mrs. Reed stated that commercial uses would probably be equal to the residential use as far as parking is concerned. She would prefer the commercial use out front.

Mr. Fowler asked if the plan will be modified to show commercial. Mr. Germano replied yes, and there will be an elevator.

Mr. Fratalia was all set.

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Mr. Anderson was all set and likes the fact that this project will clean up two neglected properties.

MOTION - Mr. Fowler made a motion to approve the change from residential units to commercial units on the second floor of the commercial building as a non-substantial change. The motion was seconded by Mr. Anderson and unanimously voted 5-0.

(B4) 1877 Main Street - ANR

Mr. Johnson stated that there has been no new plan submitted by the applicant so this will be continued until September at the applicants' request.

(B5) Day Street - ANR

Robert Gill appeared for an ANR on Day Street. Mr. Gill stated that there was a technical correction on the recorded plan. The plan shows two separate lots, one that is 40,000 SF and 10,000 SF and this plan combines them into one lot.

Mrs. Reed stated that the plan is not clear and a note should be added on what exactly this plan is doing. Mr. Fowler and Mr. Fratalia agreed.

MOTION - Mr. Fowler made a motion to endorse the ANR plan for Day Street once a note is added explaining that this plan is to combine two lots into one. The motion was seconded by Mr. Anderson and unanimously voted 5-0.

(B6) Livingston Street, The Residence's at Joan's Farm – Non-Substantial Determination

Jim Hanley and Dick Cuoco appeared for a non-substantial determination for The Residence's at Joan's Farm. Mr. Hanley stated that there was an error on the plans and cover sheet. The plans and waiver stated 51' and it should be 56' for the height of the buildings.

Mr. Anderson stated that he is recusing himself and will not be voting on this since he did not participate in the public hearing.

Mr. Fowler, Mr. Fratalia, Mrs. Reed and Mr. Johnson had no questions.

MOTION - Mrs. Reed made a motion to approve the change the waiver of Section 8689.2, Note 8.2 on Sheet C-1 from 51' to 56' and agree that this change is non-substantial. The motion was seconded by Mr. Fratalia and unanimously voted 4-0. Mr. Anderson abstained from voting.

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(C) Master Plan – Zoning Bylaw Subcommittee Minutes

MOTION - Mr. Fowler made a motion to approve the August 4, 2014 Zoning Bylaw Subcommittee minutes. The motion was seconded by Mrs. Reed and unanimously voted 4-0. Mr. Anderson not voting.

MOTION - Mr. Fowler made a motion to approve the October 28, 2014 Zoning Bylaw Subcommittee minutes. The motion was seconded by Mrs. Reed and unanimously voted 4-0. Mr. Anderson not voting.

MOTION - Mr. Fowler made a motion to approve the November 24, 2014 Zoning Bylaw Subcommittee minutes. The motion was seconded by Mrs. Reed and unanimously voted 3-0. Mr. Fratalia and Mr. Anderson not voting.

MOTION - Mr. Fowler made a motion to approve the February 4, 2015 Zoning Bylaw Subcommittee minutes. The motion was seconded by Mrs. Reed and unanimously voted 4-0. Mr. Anderson not voting.

MOTION - Mr. Fowler made a motion to approve the February 10, 2015 Zoning Bylaw Subcommittee minutes. The motion was seconded by Mrs. Reed and unanimously voted 3-0. Mr. Fratalia and Mr. Anderson not voting.

MOTION - Mr. Fowler made a motion to approve the February 23, 2015 Zoning Bylaw Subcommittee minutes with the following change. In the last paragraph, change to read “There was not money allotted from the CPA to investigate moving the Pike House.”. The motion was seconded by Mrs. Reed and unanimously voted 4-0. Mr. Anderson not voting.

MOTION - Mrs. Reed made a motion to table the remainder of Agenda Item C. The motion was seconded by Mr. Fowler and unanimously voted 5-0.

(D) Victor Drive, Marc Ginsburg & Sons, Continued Site Plan Special Permit/Special Permit

Marc Ginsburg, Dick Cuoco, Jim Hanley and Joel Kahn appeared for the continue Site Plan Special Permit/Special Permit for Victor Drive.

Mr. Hanley stated that they have been going back and forth with GCG, Weston and Sampson and the DPW to try to work out the remaining issues. There were two formal submissions and a few partial submissions since the last meeting. The DPW had concern with the size and configuration of the pump station. This has been updated. They have also modified the box culvert and reduced the wetlands impact. There has been a 600 SF replication area added. Mr. Hanley stated that there was a concern with the size of the internal parking in the buildings so an additional waiver from Section 7141 is required as well as a waiver from Section 9342 for surface water. Mr. Hanley stated that an ANR plan will also be submitted.

Mr. Cuoco stated that they are also looking at adding a dog park adjacent to this property. If this does happen, they are requesting that this be a non-substantial change and handled administratively by creating a new lot out back for the Town. A new lot may also be created where the maintenance building is. Mr. Ginsburg added that any use change of this lot would come back before the Planning Board.

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Mrs. Reed stated that on Sheet C2, is it possible to use the front parcel for affordable housing instead of open space. Mr. Ginsburg stated that they could possibly break off a one to two acre parcel and add a deed restriction for affordable housing or open space. Mrs. Reed stated that the GCG letter mentioned density in the MFD but she is not sure they understand the overlay is not the same.

Mr. Fratalia stated that there still looks to be a lot of open issues. Mr. Hanley stated that the technical issues are pretty much addressed. Mr. Fratalia stated the regulations require 506 parking and you are proposing 394, a waiver will be required. Mr. Cuoco replied yes. Mr. Fratalia asked where the dog park will be. Mr. Cuoco stated that the location may need to be moved around within the site to behind Building 4, but that will have to be determined. Mr. Fratalia asked if benches will be installed along Victor Drive. Mr. Ginsburg replied yes. Mr. Sadwick stated that he was in the meeting with the Town Manager and Conservation Commission chairman and this is not the preferred site for the Town dog park.

Mr. Anderson stated that he is in favor of the dog park in the back of the property and becoming a dog park for the Town. Mr. Anderson asked what the time table for this project is. Mr. Ginsburg stated that they have answered all the technical issues and they are still in front of the Conservation Commission. He would like to have this approved tonight by the Board.

Mr. Fowler stated that he had a conversation with the safety office about the speed of the traffic on Victor Drive and then spoke with Mr. Ginsburg. Andover had a similar project and they had traffic mitigation and provided the Board with the information on the units they required. Mr. Ginsburg stated that he has offered to install speed bumps and set up a traffic radar unit or other mitigation but he does not agree with him being responsible for ten years. Mr. Ginsburg proposed donating \$7,500 to \$10,000 towards mitigation for speed on Victor Drive.

Mr. Cuoco stated that the applicant has proposed the following mitigation:

1. Section 7014(b) – Requesting waiver for construction of Affordable Housing Units – Donation of \$25,000 x 29 affordable units / 4 building = \$181,250/building = \$725,000.
2. Transfer fee ownership to the Town of Tewksbury for \$1.00, approximately 16 acres of land situation easterly of the developed portion of the project. Approximately 2 acres of said land fronts on Main Street and will be designated for affordable housing. The remaining land shall be used for passive recreation and open space conservation land. An “Approval Not Required” Subdivision Plan will be submitted upon final approval of the project.
3. Construct approximately 1,600 to 1,700’ of 8’ wide paved bike path from Victor Drive to Livingston Street. Portions of the bike path are located within the project boundary with the remaining portion passing over other land of the Town of Tewksbury.
4. Subject to approval by the Tewksbury School Department, the applicant will construct a new gravel parking area for approximately 35 to 50 passenger vehicles at the Wynn Middle School to help alleviate parking on Victor Drive during special events.
5. Construct an 8’ wide sidewalk along entire frontage of the property.
6. Donation of \$7,500 to \$10,000 for traffic and speed mitigation on Victor Drive.

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There was no one in the audience.

MOTION - Mr. Fowler made a motion to close the public hearing. The motion was seconded by Mr. Anderson and unanimously voted 5-0.

MOTION - Mr. Anderson made a motion to approve the following waivers from a letter from Civil Design Consultants, Inc. dated July 6, 2015:

1. Building height from 2.5 stories and 35' to 5 stories and 70' according to Section 8689.2.
2. Parking spaces – from 506 to 386 parking spaces according to Section 8690 (1 & 2) as provided in the memo.
3. Section 4500 – Landscaping, Screening and Buffering requirements to allow for landscaping to be generally consistent with the site renderings and subject to a final site inspection performed by the Planning Board or their representative.
4. Section 5334 to allow for site lighting to be addressed during final building design, prior to issuance of the building permit and subject to a final site inspection performed by the Planning Board or their representative. Lighting is an integral part of the building façade design and may impact any site lighting designed at this time resulting in redesign and potentially additional review. It is the applicant's intent to provide site and building lighting consistent with the zoning requirement and specifically address Section 5330 to avoid glare and light spill over onto abutting and neighboring properties and roadways.
5. Waiver from the Land Disturbance Permit in compliance with Chapter 19 – Stormwater Management and Erosion Control Bylaw.
6. Section 7610 – Allow reduction of the size of the proposed interior parking spaces from 10' x 20' to 9.5' x 19.5'.
7. Section 9342 – Allow for relief from the required Surface Water and Subsurface Conditions portion of the Development Impact Statement.

These waivers were approved due to a finding by the Planning Board that these waivers would have the desired results accordance to zoning. The motion was seconded by Mrs. Reed and unanimously voted 5-0.

MOTION - Mr. Fowler made a motion to approve the Site Plan Special Permit and Special Permit for Victor Drive with all approved waivers and incorporation of the special mitigation and a submission of an ANR plan that includes a one to two acre parcel along Main Street that will be designated for affordable housing. The motion was seconded by Mr. Anderson and unanimously voted 5-0.

MOTION - Mrs. Reed made a motion to take agenda item C off the table. The motion was seconded by Mr. Fratalia and unanimously voted 5-0.

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(C) Master Plan Update

Judy Barrett appeared for discussion of the Master Plan. Ms. Barrett stated that they are finishing the edits. She is having difficulties with the land use portion. The Zoning Bylaw is heavy on required Special Permits. The times have changed and Special Permits are not needed as much. The by-right uses should be subject to design or performance standards instead of Special Permits. This would liberate the bylaw. Ms. Barrett stated that the parking standards seem excessive. There should be design regulations and the bylaw should be simplified.

Mrs. Reed stated that a recodification was done around 1999. Ms. Barrett stated that there should be more by right uses that are allowed subject to a Site Plan Review. There are a lot of overlay districts and this produces use conflicts. These should be reduced. Mrs. Reed stated that the overlay districts were seen as a bridge. Ms. Barrett stated that if you look at Rt. 38, if the uses don't work, then it is logical to make a change in zoning. Mr. Johnson stated that we could note that as a goal. Ms. Barrett stated that the non-conforming use and structure section should be updated. Mrs. Reed stated that she agrees with Mr. Johnson and it could be a goal.

Mr. Fowler asked if our zoning bylaw has caused grief to developers or land owners to develop their properties. Ms. Barrett stated that the zoning bylaw does not indicate what the town wants. Mr. Fowler asked how we got to where we are. Was it bad legal advice or was it easy to defend if challenged. Ms. Barrett stated that the planning philosophy has changed.

Mr. Sadwick stated that proposed zoning changes for development refer to the Master Plan. How do other communities make zoning changes and what is the level of study or outreach. Ms. Barrett stated that Braintree is doing a complete zoning revision working with a Master Plan that is 12 years old. It is a two year project and planning is required. They are doing an outreach with property owners. They also are using an online tool, My Sidewalk to focus on design.

Mr. Sadwick asked when the draft Master Plan will be delivered. Ms. Barrett replied by the end of July or beginning of August.

Mr. Fratalia agreed there is a crazy amount of uses that require a special permit. Mr. Fratalia asked if other towns have an Economic Development person on staff. Ms. Barrett replied yes. Ms. Barrett stated that they could create a working group with Planning Board, Conservation Commission, residents, and attorneys to do a zoning audit. Mr. Fratalia stated that the overlay districts have promoted a lot of development. Mr. Fratalia asked if other towns offer tax incentives to promote economic development. Ms. Barrett replied some, but there are a lot of other tools the Town can use. The developers and companies are looking to minimize risk.

Mr. Sadwick stated that once the draft is received, they will hold a public hearing and then it should be voted on.

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Old Business

Mr. Fowler stated that he spoke with Mr. Sadwick regarding the sidewalks on Pleasant Street. Mr. Sadwick stated that he spoke with the DPW and they have a paving contractor for the summer and they will be looking at this.

Mr. Anderson asked if the meeting tomorrow on the housing summit has been moved to August. Mr. Sadwick replied that is correct.

Mr. Anderson asked when the Rt. 38 project will be starting. Mr. Sadwick stated that it should be starting in a few weeks. Mr. Anderson asked if there will be any street landscaping improvements on Rt. 38. Mr. Sadwick replied no, that was not part of the bid.

Mr. Fratalia asked what the statuses of the RFPs are. Mr. Sadwick stated that the Wamesit project is due Wednesday at 2:00 PM. The demolition of the old Police Station and moving of the Pike House will be next Monday.

New Business

Mr. Fowler asked if we should go into Executive Session to discuss the DeGennero issue. Mr. Sadwick stated that it has been forwarded to Town Counsel and he is going to court.

Mrs. Reed stated that she spoke with the Town Manager and Mr. Sadwick on the status of the South Street Fire Station cell tower. She is very concerned with it not being moved and is disappointed that there was not a concerted effort to take the tower down or moving it. We could have used mitigation money or other planning funds.

Mr. Johnson stated that there are new federal regulations that make it difficult for the town to do much. Mr. Sadwick stated that the bottom line is that the federal regulations will allow them to put up a tower so they can get coverage, so if not on the existing pole, it could be somewhere else where the Town would not want it and the Town would not benefit from the rent. There is also a chance that if the tower came down, the carriers could sue the Town. The public safety departments need their antennas at a certain height. Mrs. Reed stated that she is not saying to just take it down without comprehensive planning. The decision was made a year ago not to take it down and it seems like no one from the Town cares. Mr. Johnson stated that no one on this Board said they don't care. Mr. Johnson asked if a reduction of height would help. Mr. Sadwick replied no. Mrs. Reed stated that the rendering showed 100'. Mr. Sadwick stated that the consultant was not using the specifications. Mr. Anderson stated that he cares about this issue and embarrassed how this affects the Mico Kaufman statue that was donated to the Town.

Director's Report

Mr. Sadwick stated that the items have been covered under old and new business.

Adjournment

MOTION - Mr. Fowler made a motion to adjourn the meeting at 9:05 PM. The motion was seconded by Mr. Anderson and unanimously voted 5-0.

Approved on: 9/14/15

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List of documents for 7/13/15 Agenda

Documents can be located at the Community Development Office

- A. 7:00** Approval of Planning Board Minutes
April 21, 2015
May 28, 2015
June 8, 2015
June 22, 2015
- B. 7:00** Committee Reports/Administrative Actions
1- Committee Reports
2- 5 Westland Drive – ANR
• *Form A packet dated 6/23/15.*
3- 1390 & 1394 Main Street, Non-Substantial Determination
• *Application packet dated 6/17/15.*
4- 1877 Main Street – ANR
• *Email from Bob Scarano to Linda DiPrimio dated 7/8/15*
5- Day Street – ANR
• *Form A packet dated 7/9/15.*
6- Livingston Street, The Residence's at Joan's Farm
Non-Substantial Determination
• *Non-Substantial Determination packet dated 7/9/15.*
- C. 7:00** Master Plan
Approval of Zoning Bylaw Committee Minutes
• August 4, 2014
• October 28, 2014
• November 24, 2014
• February 4, 2015
• February 10, 2015
• February 23, 2015
- D. 7:20** Victor Drive, Marc Ginsburg & Sons
Continued Site Plan Special Permit/Special Permit
• *Letter 6/5/15 fr Civil Design re: request for waivers.*
• *Turning Plan CP-1 dated 6/5/15 – Victor Drive at Main Street.*
• *Site Development Plans, Victor Drive dated 3/26/15 revised 6/5/15.*
• *Response letter 6/15/15 fr Civil Design re: TEC May 4, 2015 review letter.*
• *Letter 7/6/15 fr Civil Design re: GCG Response Letter #2 (attached).*
• *Letter 7/9/15 fr Civil Design re: DPW Response Letter #2 (attached).*